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6 **BEFORE THE**  
7 **CALIFORNIA BOARD OF ACCOUNTANCY**  
8 **DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. AC-2003-02

11 **BYRON LEE MCBROOM**

250 Cherry Lane, No. 101

12 Manteca, California 95337

13 Certificate No. CPA 39615

14 and

15 **BYRON MCBROOM CPA, A**  
16 **PROFESSIONAL CORPORATION**

250 Cherry Lane, No. 101

17 Manteca, California 95337

18 Certificate No. COR 3617

Respondent.

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

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20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
21 above-entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Carol Sigmann ("Complainant") is the Executive Officer of the California  
24 Board of Accountancy ("Board"). She brought the Accusation in Case No. AC-2003-2 solely in  
25 her official capacity and is represented in that action by Bill Lockyer, Attorney General of the  
26 State of California, by Ronald L. Diedrich, Deputy Attorney General. She is represented in this  
27 Stipulated Settlement and Disciplinary Order by Gregory P. Newington, Chief of the  
28 Enforcement Division, of the Board.

2. Both Byron Lee McBroom ("Respondent McBroom") and Byron McBroom CPA, a Professional Corporation, ("Respondent Corporation") are represented in this proceeding by attorney Bruce Locke, of Moss & Locke, whose address is 555 University Avenue, Suite 170, Sacramento, California 95825.

3. On or about January 27, 1984, the Board of Accountancy issued Certificate number CPA 39615 to Respondent McBroom.

a. Respondent McBroom's certificate expired on or about July 1, 1993. Respondent had failed to pay the required renewal fee and he had failed to submit the required declaration of compliance with the continuing education requirements.

b. Respondent McBroom's certificate was renewed on or about September 28, 1993, upon the Board's receipt of the renewal fee and the declaration of compliance with the continuing education requirements.

c. Respondent McBroom's certificate was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2003, unless renewed.

4. On or about December 6, 1990, the Board issued Certificate number COR 3617 to Respondent Corporation. Respondent Corporation's certificate was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2002, unless renewed.

## JURISDICTION

5. Accusation No. AC-2003-02 was filed before the Board and is currently pending against Respondents. The Accusation and all other statutorily required documents were properly served on Respondent on July 22, 2002. Respondents timely filed Notices of Defense contesting the Accusation. A copy of Accusation No. AC-2003-02 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondents have carefully read, fully discussed with counsel, and understand the charges and allegations in Accusation No. AC-2003-02. Respondents have also carefully read, fully discussed with counsel, and understand the effects of this Stipulated

### Settlement and Disciplinary Order.

7. Respondents are fully aware of their legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at their own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondents voluntarily, knowingly, and intelligently waive and give up each and every right set forth above.

## CULPABILITY

9. Respondents admit the truth of each and every charge and allegation in Accusation No. AC-2003-02.

10. Respondents agree that they are subject to discipline and they agree to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

## CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondents understand and agree that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondents or their counsel. By signing the stipulation, Respondents understand and agree that they may not withdraw their agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same

1 force and effect as the originals.

2 13. In consideration of the foregoing admissions and stipulations, the parties  
3 agree that the Board may, without further notice or formal proceeding, issue and enter the  
4 following Disciplinary Order:

5 **DISCIPLINARY ORDER**

6 IT IS HEREBY ORDERED that both Certificate number CPA 39615 issued to  
7 Byron Lee McBroom and Certificate number COR 3617 issued to Byron McBroom CPA, a  
8 Professional Corporation, are revoked. However, both revocations are stayed and both  
9 Respondent McBroom's and Respondent Corporation's certificates are placed on probation for  
10 five (5) years on the following terms and conditions.

11 1. **Actual Suspension.** Both Certificate number CPA 39615 issued to  
12 Respondent McBroom and Certificate number COR 3617 issued to Respondent Corporation are  
13 suspended for three (3) years from the effective date of this Stipulated Settlement and  
14 Disciplinary Order. During the period of suspension neither respondent shall engage in any  
15 activities for which certification by the Board is required or hold, directly or indirectly, any type  
16 of ownership interest in a corporation or partnership licensed by the Board.

17 2. **Obey All Laws.** Respondents shall obey all federal, California, other  
18 states' and local laws, including those rules relating to the practice of public accountancy in  
19 California.

20 3. **Submit Written Reports.** Respondents shall submit, within ten (10) days  
21 of completion of the quarter, written reports to the Board on a form obtained from the Board.  
22 Respondents shall submit, under penalty of perjury, such other written reports, declarations, and  
23 verification of actions as are required. These declarations shall contain statements relative to  
24 Respondents' compliance with all the terms and conditions of probation. Respondents shall  
25 immediately execute all releases of information forms as may be required by the Board or its  
26 representatives.

27 4. **Personal Appearances.** Respondents shall, during the period of  
28 probation, appear in person at interviews/meetings as directed by the Board or its designated

representatives, provided such notification is accomplished in a timely manner.

5. **Comply With Probation.** Respondents shall fully comply with the terms and conditions of the probation imposed by the Board and shall cooperate fully with representatives of the Board in its monitoring and investigation of the Respondents' compliance with probation terms and conditions.

6. **Practice Investigation.** Respondents shall be subject to, and shall permit, practice investigation of the Respondents' professional practice. Such a practice investigation shall be conducted by representatives of the Board, provided notification of such review is accomplished in a timely manner.

7. **Comply With Citations.** Respondents shall comply with all final orders resulting from citations issued by the Board.

8. **Tolling of Probation For Out-of-State Residence/Practice.** In the event Respondents should leave California to reside or practice outside this state, Respondents must notify the Board in writing of the dates of departure and return. Periods of non-California residency or practice outside the state shall not apply to reduction of the probationary period, or of any suspension. No obligation imposed herein, including requirements to file written reports, reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise affected by such periods of out-of-state residency or practice except at the written direction of the Board.

9. **Violation of Probation.** If either respondent violates probation in any respect, the Board, after giving Respondents notice and an opportunity to be heard, may revoke the probations and carry out the disciplinary orders that were stayed. If an accusation or a petition to revoke probation is filed against either respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

10. **Completion of Probation.** Upon successful completion of probation, Respondents' certificates will be fully restored.

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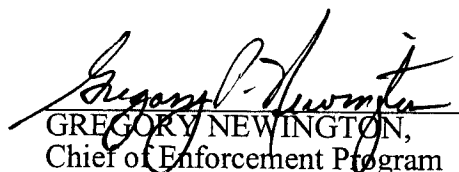


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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the California Board of Accountancy of the Department of Consumer Affairs.

DATED: 8/28/02

  
\_\_\_\_\_  
GREGORY NEWINGTON,  
Chief of Enforcement Program  
California Board of Accountancy

**BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**BYRON LEE MCBROOM**

250 Cherry Lane, No. 101

Manteca, CA 95337

Certificate No. CPA 39615

and

**BYRON MCBROOM CPA, A  
PROFESSIONAL CORPORATION**

250 Cherry Lane, No. 101

Manteca, CA 95337

Certificate No. COR 3617

Respondent.

Case No.AC-2003-2

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on October 25, 2002.

It is so ORDERED on September 25, 2002.

  
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President

For The CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS



**Exhibit A**  
**Accusation No. AC-2003-2**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 RONALD L. DIEDRICH, State Bar No. 95146  
Deputy Attorney General  
3 California Department of Justice  
1300 I Street, Suite 125  
4 P.O. Box 944255  
Sacramento, CA 94244-2550  
5 Telephone: (916) 324-5333  
Facsimile: (916) 327-8643  
6 E-mail: ron.diedrich@doj.ca.gov

7 Attorneys for Complainant

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**BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

12

In the Matter of the Accusation Against:

Case No. AC-2003-2

13

**BYRON LEE MCBROOM**

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250 Cherry Lane, No. 101  
Manteca, California 95337

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Certificate No. CPA 39615

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and

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**BYRON MCBROOM CPA, A  
PROFESSIONAL CORPORATION**

18

250 Cherry Lane, No. 101  
Manteca, California 95337

19

Certificate No. COR 3617

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Respondents.

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Complainant alleges:

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**PARTIES**

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1. Carol Sigmann ("Complainant") brings this Accusation solely in her

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official capacity as the Executive Officer of the California Board of Accountancy ("Board"),

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Department of Consumer Affairs.

2. On or about January 27, 1984, the Board of Accountancy issued Certificate number CPA 39615 to Byron Lee McBroom ("Respondent McBroom").

a. Respondent McBroom's certificate expired on or about July 1, 1993. Respondent had failed to pay the required renewal fee and he had failed to submit the required declaration of compliance with the continuing education requirements.

b. Respondent McBroom's certificate was renewed on or about September 28, 1993, upon the Board's receipt of the renewal fee and the declaration of compliance with the continuing education requirements.

c. Respondent McBroom's certificate was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2003, unless renewed.

3. On or about December 6, 1990, the Board issued Certificate number COR 3617 to Byron McBroom CPA, a Professional Corporation ("Respondent Corporation") Respondent Corporation's certificate was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2002, unless renewed.

## JURISDICTION

4. This Accusation is brought before the Board pursuant to Business and Professions Code ("Code") section 5100 which provides, in pertinent part, that the Board may revoke, suspend, or refuse to renew any permit or certificate it has issued, or censure any of its licensees, for unprofessional conduct.

## STATUTORY AUTHORITY

5. Code section 5100 states, in pertinent part, that:

After notice and hearing the board may revoke, suspend or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct which includes, but is not limited to, one or any combination of the following causes:

(i) Knowing preparation, publication or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

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1 COST RECOVERY

2 6. Code section 5107, subdivision (a), states:

3 (a) The executive officer of the board may request the  
4 administrative law judge, as part of the proposed decision in a  
5 disciplinary proceeding, to direct any holder of a permit or  
6 certificate found guilty of unprofessional conduct in violation of  
7 subdivisions (b), (c), (i), or (j) of Section 5100, or involving a  
8 felony conviction in violation of subdivision (a) of Section 5100,  
or involving fiscal dishonesty in violation of subdivision (h) of  
Section 5100, to pay to the board all reasonable costs of  
investigation and prosecution of the case, including, but not limited  
to, attorneys' fees. The board shall not recover costs incurred at the  
administrative hearing.

9 CAUSE FOR DISCIPLINE

10 7. Respondent McBroom and Respondent Corporation are subject to  
11 disciplinary action under Code section 5100, in that Respondents engaged in unprofessional  
12 conduct as defined in Code section 5100, subdivision (i). Respondents knowingly prepared,  
13 published or disseminated, or knowingly participated in and/or acquiesced to the preparation,  
14 publication or dissemination of, false, fraudulent, or materially misleading financial statements,  
15 reports, or information.

16 8. Respondents willfully and knowingly submitted to the Internal Revenue  
17 Service ("IRS") a statement or document that was false or fraudulent as to a material matter.

18 9. Prior to February 1996, Respondents obtained a new client, Edward Roe  
19 ("Roe"), who consulted Respondents concerning the negotiation of a compromise with the IRS of  
20 Roe's outstanding federal tax liability. The IRS had assessed a very substantial amount of  
21 liability against Roe, which assessment had resulted from unpaid employment taxes following  
22 the failure of businesses in which Roe and others had been principals. Respondents were not  
23 involved in the activity which had resulted in such assessment.

24 10. Roe created and back-dated a prenuptial agreement for purposes of  
25 presenting such agreement to the IRS in the course of the offer-in-compromise. Respondents  
26 faxed the back-dated prenuptial agreement signed by Roe to the IRS Revenue Officer assigned to  
27 the offer-in-compromise negotiations, knowing that the document had been back-dated.

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1                   11.     Respondents also assisted Roe in manipulating the nature and  
2     characterization of Roe's compensation at Lloyd Equipment Company, and in taking other  
3     actions to create the false impression, for purposes of Roe's negotiation with the IRS, that Roe  
4     had less income and assets than in fact was the case. On or about February 12, 1996,  
5     Respondents assisted Roe with the completion of a Form 433-A, Collection Information  
6     Statement for Individuals, which Roe signed under penalty of perjury. The document was  
7     completed in the course of the offer-in-compromise negotiations for the purpose of supplying  
8     information to the IRS. Respondents knew that the document materially understated Roe's  
9     actual income.

10                                   ADDITIONAL DISCIPLINARY CONSIDERATIONS

11                   12.     On or about June 11, 2002, Respondent McBroom entered into a plea  
12     agreement in the case of *United States of America v. Byron McBroom*, No. CR.S-02-0229 GGH  
13     (E.D.Cal. 2002), in which he has agreed to plead guilty to violating one count of submitting a  
14     false document to the IRS, in violation of Title 26, United States Code, Section 7207. The  
15     conduct alleged in paragraphs 8 thru 11 above, and incorporated herein by reference, is  
16     essentially the conduct which gave rise to this case and to which Respondent McBroom has  
17     admitted.

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